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IN THE

Supreme Court of the United States

JOHN ASHCROFT, ATTORNEY GENERAL OF THE UNITED STATES OF AMERICA, *Petitioner*,

v.

AMERICAN CIVIL LIBERTIES UNION, ET AL.,
Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Third Circuit

Brief Amicus Curiae of the American Center for Law and Justice and United States Representatives Robert B. Aderholt, Todd Akin, Cass Ballenger, Bob Beauprez, Michael "Mac" Collins, Jo Ann Davis, Duncan Hunter, Earnest Istook, Jr., Walter Jones, Charles "Chip" Pickering, Jr., Jim R. Ryun, John M. Shimkus, and John Sullivan Supporting Petitioners

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INTEREST OF AMICI*

This brief is filed on behalf of Representatives Robert B. Aderholt, Todd Akin, Cass Ballenger, Bob Beauprez, Michael "Mac" Collins, Jo Ann Davis, Duncan Hunter, Earnest Istook, Jr., Walter Jones, Charles "Chip" Pickering, Jr., Jim R. Ryun, John M. Shimkus and John Sullivan. These amici currently are members of the United States House of Representatives in the One Hundred Eighth Congress. Amici Representatives are committed to the defense of federal statutes restricting online publication of obscenity and child pornography, and the online publication of indecent materials to minors. Amici disagree with the Third Circuit's decision below and urge this Court to reverse it.

The American Center for Law and Justice ("ACLJ") is a public interest law firm dedicated to protecting First Amendment freedoms. ACLJ attorneys have argued or participated as amicus curiae in numerous cases involving constitutional issues before the Supreme Court of the United States and lower federal courts, and Chief Counsel Jay Alan Sekulow has presented oral argument before this Court eleven times.

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* This brief is filed with the consent of the parties, and letters indicating such consent have been filed with the Court. Pursuant to Rule 37.6, amicus ACLJ discloses that no counsel for any party in this case authored in whole or in part this brief and that no monetary contribution to the preparation of this brief was received from any person or entity.

SUMMARY OF THE ARGUMENT

The present case addresses the questioned constitutionality of a federal statute designed to provide workable, reasonable boundaries around commercial Internet sites that traffic in indecent images and messages. In enacting the Child Online Protection Act ("COPA"), Congress demonstrated its constitutionally reasonable judgment that those commercial vendors of indecent materials should bear the costs of insuring that children are not likely to access their wares. The mechanisms of the challenged statute are important means of protecting children.

The Internet has become an extremely controversial and difficult area to legislate since the technology is ever changing. Publishing over the Internet, unlike in other forms of media such as print, broadcast, and video, is relatively inexpensive. Moreover, no one agency or government body watches over the content of what is placed on the Internet. The result is an open unregulated medium of communication that is highly effective. Unfortunately, the factors that make it effective also make it dangerous. The Internet is becoming the fastest growing medium for pornography distribution, and some have characterized it as the best hunting ground for pedophiles.[1]

This Court has recognized the protection of children from the influence of pornography as an interest of the highest importance. *See e.g., Ginsberg v. New York*, 390 U.S. 629 (1968) (sustaining New York law protecting children from exposure to nonobscene pornography). In furtherance of that interest, Congress passed the Child Online Protection Act (COPA). COPA is a careful response

[1] Joel Sanders, *The Regulation of Indecent Material Accessible to Children on the Internet*, 39 Catholic Law. 125, 129 (1999).

to this Court's decision in *Reno v. American Civil Liberties Union*, 521 U.S. 844 (1997). As such, it is narrowly tailored to define precisely that material which is subject to its regulations and target only that material which poses the gravest threat to our children's safety and well-being.

ARGUMENT

I. PROTECTING CHILDREN IS AN INTEREST OF THE HIGHEST IMPORTANCE

In the constitutional order, policy making is the prerogative of Congress. It does not belong to the Respondents, nor to the court below, nor even to this Court, to make or to unmake the fundamental policy judgment that the Congress embodied in the Child Online Protection Act. Instead, it is the peculiar province of Congress to make the policy judgments that lead to the enactment of legislation. Alexander Hamilton hopefully expounded,

> The Executive not only dispenses the honors, but holds the sword of the community. The legislature not only commands the purse, but prescribes the rules by which the duties and rights of every citizen are to be regulated. The judiciary, on the contrary, has no influence over either the sword or the purse; no direction either of the strength or of the wealth of the society; and can take no active resolution whatever. It may truly be said to have neither FORCE nor WILL, but merely judgment; and must ultimately depend upon the aid of the executive arm even for the efficacy of its judgments.

The Federalist No. 78, at 393-94 (G. Wills ed. 1982). That exercise of will is the essence of policy making; consequently, the exercise of will is a legislative function.

A proper respect for constitutional governance not only tends to suggest that Congress should craft laws with care so that they do not cross constitutional boundaries, but also that courts should not lightly, or with ease, resort to judicial invalidations of Acts of Congress. Yet there is little doubt that the Third Circuit's judgment evidences just such judicial ease with statutory invalidation.

Here, Congress has acted upon two policy judgments. Those policy judgments are that pornography is harmful to children and that protecting children from the harmful consequences of exposure to indecent materials is an interest of the highest order of importance.[2] Those policy judgments are longstanding, and this Court has not found them to be constitutionally suspect. Rather, this Court has acknowledged that the interest identified by Congress is compelling. "It is evident beyond the need for elaboration" that the government has a compelling interest in "safeguarding the physical and psychological well-being of a minor." *New York v. Ferber*, 458 U.S. 747, 756-57 (1982) (quoting *Globe Newspaper Co. v. Superior Court*, 457 U.S. 596, 607 (1982)). Further, "[a] democratic society rests, for its continuance, upon the healthy, well-rounded growth of

[2] Congress has enacted two other measures in furtherance of its interest in protecting children from the harmful effects of pornography. In 1996, Congress passed the Child Pornography Protection Act (CPPA), 18 U.S.C. § 2251 et seq., a ban on virtual child pornography. CPPA was struck down in *Ashcroft v. Free Speech Coalition*, 535 U.S. 234 (2002), as unconstitutionally overbroad since it proscribed speech which was neither child pornography nor obscene. More recently, Congress passed the Children's Internet Protection Act (CIPA), 20 U.S.C. § 9134 (2000), which conditions federal Internet assistance to public libraries on the libraries' use of filtering software that blocks access to obscenity, child pornography, and material that is harmful to minors. This Court upheld CIPA in *Untied States v. American Library Ass'n*, 123 S. Ct. 2297 (2003).

young people into full maturity as citizens." 458 U.S. at 757 (quoting *Prince v. Massachusetts*, 321 U.S. 158, 168 (1944)).

This Court has sustained laws protecting the psychological and physical well-being of children "even when the laws have operated in the sensitive area of constitutionally protected rights." *Id. See e.g., Osborne v. Ohio*, 495 U.S. 103 (1990) (Ohio statute proscribing the mere possession and viewing of child pornography); *Ginsberg v. New York*, 390 U.S. 629 (1968) (New York law protecting children from exposure to nonobscene pornography); *FCC v. Pacifica*, 438 U.S. 726 (1978) (regulation of indecent but nonobscene radio broadcasts to protect children).

Moreover, Congress has proceeded upon the presumption that the materials affected by its legislative judgment – indecent but not obscene materials – are entitled to some form of constitutional protection. So Congress did not attempt to suppress entirely this category of communication. Instead, COPA imposes a framework for enforcing restrictions on access to commercial sites vending indecent materials. Congress's eminently reasonable judgment is consistent with the First Amendment and with this Court's decisions.

II. EXPOSURE TO PORNOGRAPHY HAS SERIOUS EFFECTS THAT JUSTIFY THE MINIMAL BURDEN OF COPA'S REQUIREMENTS

As noted, in enacting COPA, Congress acted upon the policy judgments that pornography is harmful to children and that protecting children from this harm is of the utmost

importance.[3] Those judgments are amply supported. Over the last few years, many have voiced serious concerns over the unrestricted availability of pornography on the internet. Parents responsible for the care and upbringing of today's children, and those responsible for supporting parents in that task, must find ways to protect those children from influences never imagined by previous generations. According to current statistics, nine out of ten children between the ages of eight and sixteen have viewed pornography on the Internet.[4] In a recent national survey of 1,501 regular Internet-using youth who were 10 to 17 years of age, researchers found that 25 percent had been exposed

[3] The Congressional Findings related to COPA are as follows:

(1) while custody, care, and nurture of the child resides first with the parent, the widespread availability of the Internet presents opportunities for minors to access materials through the World Wide Web in a manner that can frustrate parental supervision or control;

(2) the protection of the physical and psychological well-being of minors by shielding them from materials that are harmful to them is a compelling governmental interest;

(3) to date, while the industry has developed innovative ways to help parents and educators restrict material that is harmful to minors through parental control protections and self-regulation, such efforts have not provided a national solution to the problem of minors accessing harmful material on the World Wide Web;

(4) a prohibition on the distribution of material harmful to minors, combined with legitimate defenses, is currently the most effective and least restrictive means by which to satisfy the compelling government interest; and

(5) notwithstanding the existence of protections that limit the distribution over the World Wide Web of material that is harmful to minors, parents, educators, and industry must continue efforts to find ways to protect children from being exposed to harmful material found on the Internet.

H.R. 3783, 105th Cong. § 101.

[4] Donna Rice Hughes, "How Pornography Harms Children," (visited December 3, 2003) <http://www.protectkids.com/effects/harms.htm>.

in the last year to pictorial sexual material on the Internet when they didn't want it and weren't looking for it.[5] In most cases, the sex sites were accessed unintentionally when a child, often in the process of doing homework, used a seemingly innocent sounding word to search for information or pictures.[6]

Exposure to pornography interferes with a child's development and identity:

> Sexual identity develops gradually through childhood and adolescence. In fact, children generally do not have a *natural* sexual capacity until between the ages of ten and twelve. As they grow up, children are especially susceptible to influences affecting their development. Information about sex in most homes and schools, comes, presumably, in age-appropriate incremental stages based on what parents, educators, physicians, and social scientists have learned about child development. But pornography short-circuits and/or distorts the normal personality development process and supplies misinformation about a child's sexuality, sense of self, and body that leaves the child confused, changed, and damaged.
>
> The sexual excitement and eventual release obtained through pornography are mood altering. For example, if a young boy's early stimulus was pornographic photographs, he can be conditioned to become aroused through photographs. Once this pairing is rewarded a number of times, it is likely to

[5] David Finkelhor, "Helping Kids Avoid Pornography Online," UNH Crimes Against Children Research Center (visited December 7, 2003) <http://www.unh.edu/news/archive/2000/october/kb_20001020internet.html>.

[6] *Id.*

become permanent. The result is that it becomes difficult for the individual to experience sexual satisfaction apart from pornographic images.[7]

A number of studies suggest a correlation between early exposure to pornography and later sexual promiscuity and deviancy. Psychologist Victor Cline[8], an expert on sexual addiction, studied the effects of pornography on adults and children, focusing especially on pornography's potential to change or influence sexual attitudes and behavior.[9]

Cline's research in the area of sexual addiction has identified a four-step progression among many who consume pornography: (1) Addiction – causes the viewer to return for more; (2) Escalation – causes the viewer over time to need more explicit and deviant material; (3) Desensitization to the material; and (4) Acting out sexually the behaviors viewed in pornography.[10]

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[7] *Id.*

[8] Victor B. Cline testified as an expert witness at the hearings held by the COPA Commission. *See* <http://www.copacommission.org>. Cline earned his Ph.D. at the University of California, Berkeley and is presently a psychotherapist specializing in family/marital counseling and sexual addictions. He is also Professor Emeritus of Psychology at the University of Utah, Salt Lake City, Utah, President of Marriage and Family Enrichment (A nationwide seminar group) and author /editor of numerous scientific articles and books, including the book, "Where Do You Draw the Line? Explorations In Media Violence, Pornography, and Censorship."

[9] Victor Cline, "Pornography's Effects on Adults and Children" (visited December 3, 2003) <http://www.mentalhealthlibrary.info/library/porn/pornlds/pornldsauthor/links/victorcline/porneffect.htm>.

[10] Cline, "The Effects of Pornography on Behaviour," Canadians Addressing Sexual Exploitation (visited December 5, 2003) <http://www.c-a-s-e.net/The%20Effects%20of%20Porn.htm>.

Additionally, empirical research suggests that even nonviolent pornography has negative effects on some viewers because it models unhealthy sex roles or gives false information about human sexuality.[11] In one study, experimental subjects were exposed to repeated presentations of hardcore non-violent adult pornography over a six-week period. The exposure caused the subjects to:

- Develop an increased callousness toward women; trivialize rape as a criminal offense; to some it as no longer a crime at all;
- Develop distorted perceptions about sexuality;
- Develop an appetite for more deviant, bizarre, or violent types of pornography (escalation); normal sex no longer seemed to "do the job;"
- Devalue the importance of monogamy and lack confidence in marriage as a lasting institution; and
- View non-monogamous relationships as normal and natural behavior.[12]

According to other research, early exposure to pornography is also related to greater involvement in deviant sexual practice, particularly rape.[13] In addition, early exposure to pornography frequently results in sexual illnesses, unplanned pregnancies, and sexual addiction.[14] Research has shown that "males who are exposed to a great deal of erotica before the age of 14 are more sexually active

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[11] Zillman, D., and Bryant, J., *"Pornography's Impact on Sexual Satisfaction,"* Journal of Applied Social Psychology, 1988: vol. 18, no. 5, at 438-453; and Zillman, D., and Bryant, J., *"Effects of Prolonged Consumption of Pornography on Family Values,"* Journal of Family Issues (Dec. 1988): vol. 9, no. 4, at 518-544.

[12] *Id.*

[13] Donna Rice Hughes, "How Pornography Harms Children," www.protectkids.com/effects/harms.htm (visited December 3, 2003).

[14] *Id.*

and engage in more varied sexual behaviors as adults than is true for males not so exposed."[15]

Perhaps the most disturbing consequence of early exposure to pornography is that it causes children to act out the behavior depicted in the material against younger, smaller, and more vulnerable children, often a sibling. Cline described this as a modeling or "triggering effect" that even nonviolent pornography has on human sexual behavior, causing some individuals to want to imitate the behavior witnessed in the pornographic material.[16] Experts in the field of childhood sexual abuse report that any premature sexual activity in children always suggests two possible stimulants: experience and exposure. This means that the sexually deviant child may have been molested or simply exposed to sexuality through pornography.[17]

Cline suggests that because pornography changes attitudes and behavior, it serves as a form of destructive sex education:

> Anyone who has seen much pornography knows that most of it is made by men for male consumption; is extremely sexist; gives a great deal of misinformation about human sexuality; is devoid of love, relationship, responsibility; mentions nothing about the risks of sexually transmitted diseases, and for the most part, dehumanizes both male and female participants.

[15] K.E. Davis and G.N. Braucht, *Exposure to Pornography, Character and Sexual Deviance*, Technical Reports of the Commission on Obscenity and Pornography (1970), 7.
[16] Cline, "Pornography's Effects on Adults and Children," www.mentalhealthlibrary.info/library/porn/pornlds/pornldsauthor/links/victorcline/porneffect.htm.
[17] Stephen J. Kavanagh, *Protecting Children in Cyberspace* (Springfield, VA: Behavioral Psychotherapy Center, 1997), 58-59.

> Pornography portrays unhealthy or even anti-social kinds of sexual activity, such as sado-masochism, abuse and humiliation of the female, involvement of minors, incest, group sex, voyeurism, exhibitionism, bestiality, etc. If we just examine its educative impact, it presents us with some cause for concern.[18]

COPA is a necessary measure to protect children from the harm that could be done to them by pornography on the Internet.

III. COPA IS A CAREFULLY DRAFTED STATUTE THAT TRACKS CURRENT FIRST AMENDMENT JURISPRUDENCE

COPA is not Congress's first attempt to protect children from the dangers of Internet pornography. Prior to COPA, Congress enacted the Child Decency Act of 1996 (CDA) which was held unconstitutional in *Reno v. American Civil Liberties Union*, 521 U.S. 844 (1997). This Court found the CDA to be overly broad because in denying minors access to potentially harmful material, it suppressed a large amount of speech that adults have a constitutional right to receive. *Id.* at 874. That Congress paid careful attention to this Court's decision in *Reno* is evident in the substantial differences between COPA and the CDA.

[18] Cline, "Pornography's Effects on Adults and Children" (visited December 7, 2003) <http://ww.moralityinmedia.org>.

The following key points of distinction exist between CDA and COPA:

CDA	COPA
Breadth of Reach	
applied to all Internet communication, including e-mail, listservs, newsgroups, chat rooms, and the World Wide Web	applies only to materials on the World Wide Web
Scope of Materials Covered	
applied to any material that was "indecent" or "patently offensive," without defining those terms	applies only to material that satisfies a specific three-prong standard
Minors Affected	
minor is any person under the age of 18	minor is "any person under 17 years of age"
Actors Affected	
applied to commercial entities or transactions, to all nonprofit entities, and to individuals posting messages on their own computers	applies only to those Web communications that are made "for commercial purposes"
Impact on Family Governance	
barred parents from permitting their children from using a family computer to view regulated material	contains no such prohibition

- The changes made in COPA cure any constitutional infirmities that were present in previous legislation.

In its prior consideration of COPA in this case, the Court directly compared COPA to the CDA and itself outlined COPA's narrower scope:

> Apparently responding to our objections to the breadth of the CDA's coverage, Congress limited the scope of COPA's coverage in at least three ways. First while the CDA applied to communications over the Internet as a whole, including, for example, e-mail messages, COPA applies only to material displayed on the World Wide Web. Second, unlike the CDA, COPA covers only communications made "for commercial purposes." And third, while the CDA prohibited "indecent" and "patently offensive" communications, COPA restricts only the narrower category of "material that is harmful to minors."

Ashcroft v. ACLU, 535 U.S. 564, 569-70 (2002). In spite of this Court's observations about COPA's narrowed reach, the Third Circuit concluded that COPA, and its definition of "material that is harmful-to-minors" in particular, is still not narrowly tailored.

COPA defines "material that is harmful to minors" as

> any communication, picture, image, graphic image file, article, recording, writing, or other matter of any kind that is obscene or that –
>
> (A) the average person, applying contemporary community standards, would find, taking the material as a whole and with respect to minors, is designed to appeal to, or is designed to pander to, the prurient interest;

(B) depicts, describes, or represents, in a manner patently offensive with respect to minors, an actual or simulated sexual act or sexual contact, an actual or simulated normal or perverted sexual act, or a lewd exhibition of the genitals or post-pubescent female breast; and

(C) taken as a whole, lacks serious literary, artistic, political, or scientific value for minors.

47 U.S.C. 231(e)(6) (Supp. IV 1998). This Court specifically considered COPA's definition of "material that is harmful-to-minors" and concluded that it was consistent with current First Amendment jurisprudence: "[COPA] defines the harmful-to-minors material restricted by the statute in a manner parallel to the *Miller* definition of obscenity." *Ashcroft v. ACLU*, 535 U.S. 564, 578 (2002). COPA's three-prong harmful-to-minors standard also mirrors the statutory language examined and approved by this Court in *Ginsberg v. New York*, 390 U.S. 629, 646 (1968). Finally, this standard is used by countless state statutes across the country to restrict the sale and even the display of material that is harmful to minors.[19]

The grounds asserted by Respondents and accepted by the Third Circuit to find that COPA is not narrowly tailored and that its definitions are vague are specious at best. Respondents have proven rather imaginative in their efforts to make words that are clear and commonly understood

[19] *See e.g., Crawford v. Lungren*, 96 F.3d 380 (9th Cir. 1996), *cert. denied*, 520 U.S. 1117 (1997); *American Booksellers v. Webb*, 919 F.2d 1493, 1509 (11th Cir. 1990), *cert. denied*, 500 U.S. 942 (1991); *American Booksellers Ass'n v. Virginia*, 882 F.2d 125, 127-128 (4th Cir. 1989), *cert. denied*, 494 U.S. 1056 (1990); *Upper Midwest Booksellers Ass'n v. City of Minneapolis*, 780 F.2d 1389 (8th Cir. 1985); *M.S. News Co. v. Casado*, 721 F.2d 1281 (10th Cir. 1983).

(such as minor) appear wrought with ambiguity such that no reasonable interpretation could exist.

Respondents' also claim that COPA's requirements, such as the age verification, are too burdensome to the right of adults to access pornography on the Internet. State laws that require commercial vendors to place "harmful-to-minors" material behind blinder racks, in sealed wrappers, or inside an opaque cover and to obtain proof of adult status for purchase of such materials provide a useful analogy. The alleged burden which COPA places on commercial websites and its patrons should be viewed no differently than those imposed at the state level, requiring a grocery store, for example, to shield indecent magazines from unsuspecting minor patrons. At worst, COPA's requirements create a slight inconvenience; requiring adults to verify their age to access indecent online materials does not rise to the level of an unconstitutional burden.

Respondents' also portray as a constitutional crisis the possibility that some adults will be deterred or too embarrassed to pursue the material beyond these age verification screens. The potential for embarrassment is no reason to needlessly subject millions of children to pornography's dangers. As a plurality of this Court stated in *United States v. American Library Ass'n*, 123 S. Ct. 2297, 2307 (2003), "the Constitution does not guarantee the right to acquire information . . . without any risk of embarrassment." Moreover, given the known risks posed to children, it is altogether appropriate that the adult users and the Web site operators should bear the relatively minor burden associated with keeping harmful material away from minors.

IV. LESS RESTRICTIVE MEANS ARE NOT EFFECTIVE

The Third Circuit, as well as Respondents, seem to suggest that the existence of user side filters and blocking software – a less restrictive technology – is definitive when it comes to whether COPA is narrowly tailored. The court took the position that blocking software "may be at least as successful as COPA would be in restricting minors' access to harmful material online." *ACLU v. Ashcroft*, 322 F.3d 240, 262 (3d Cir. 2003). To conclude that COPA is not narrowly tailored because filtering software used by parents is less restrictive mischaracterizes the issue. COPA requires Web publishers to take steps to prevent minors from obtaining access to material that is harmful to them. Under the less restrictive alternative view adopted by the Third Circuit and pressed by Respondents, there would be no entity that Congress could subject to filtering requirements.

Perhaps more significant is the limited efficacy of blocking software.[20] Filters can block inoffensive materials while failing to screen other, offensive materials. Moreõver, computer-savvy minors can easily defeat such filtering programs.[21] And filtering software is not cheap to buy, or

[20] Ironically, the ACLU, in another case, specifically argued that filtering technology was ineffective and unreliable in an effort to defeat a federal law which made the use of filtering software by public libraries a condition of the receipt of federal funding. *See Multnomah County Public Library, et al. v. United States,* Civil Action No. 2:01cv01322, Complaint ¶¶ 83-121 (E. D. Pa. complaint filed Mar. 20, 2001). The Supreme Court of the United States ultimately upheld the law, the Child Internet Protection Act (CIPA), in *United States v. American Library Ass'n*, 123 S. Ct. 2297 (2003). Now the ACLU argues that COPA is unconstitutional because filtering is a less restrictive alternative.

[21] Minors who want to crack filtering programs find plenty of assistance on the World Wide Web. One site, for example, "Peacefire" offers

cheap to maintain. Finally, because the content of the Internet is ever-changing, it is virtually impossible for blocking software and filtering technology to keep up.

It is an error in the Respondents' logic to set the requirements of COPA up against filtering software; they are not mutually exclusive. Congress was aware that the two approaches could operate in a synthesis, and intended that they do so to protect minors from exposure to harmful materials. *See* 47 U.S.C. 230(d) (Supp. IV 1998) (requiring Internet service providers to notify customers of the availability of blocking software). Disputes over comparative effectiveness of these alternatives are beside the point. More pertinent is the question whether Congress's plan – the consequence of which is that the structures provided by COPA operate jointly with parental or other blocking software – is significantly more effective in blocking minors' access to harmful materials than blocking software alone.

Because of the care taken by Congress, COPA is, in fact, the least restrictive means to accomplish the compelling interest in protecting minors from the harm associated with exposure to indecent materials on the World Wide Web.

CONCLUSION

With the enactment of COPA, Congress sought to provide minimal protections to America's youth from the most sordid materials being circulated on the World Wide Web under the guise of being "protected speech." Congress

cracking advice on every major filtering program currently marketed in the United States. *See* Peacefire Homepage (visited December 5, 2003) <http://www.peacefire.com> (offering links to cracking instructions for CYBERsitter, Cyber Patrol, Net Nanny, BESS, SmartFilter, X-Stop, and I-Gear).

soundly and soberly took stock of real dangers to America's soul, and responded with care and precision to those dangers. In doing so, Congress simply sought to ward off the threat once recognized by Franklin D. Roosevelt: "the nation that destroys its soul destroys itself."

The requirements imposed by COPA will not destroy the Internet. The measures prescribed by COPA do not trench upon the rights guaranteed by the First Amendment. COPA simply places a reasonable restriction on access to commercially marketed indecency to prevent access to such materials by minors. COPA, along with CPPA and CIPA, is an important, constitutionally sound step taken by Congress to address this egregious problem.

For the foregoing reasons, and those expressed in Petitioner's brief, this Court should reverse the Third Circuit's judgment.

Respectfully submitted,

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